

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460(4).

between:

Wilson Laycraft, COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

T. Sadlowski, PRESIDING OFFICER

R. Kodak, MEMBER

J. Mathias, MEMBER

This is a complaint to the Calgary Composite Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBERS: 068165166
068165174
068165182
068165190

LOCATION ADDRESS: 107, 111, 115, 119
13 Ave SE.

HEARING NUMBER: 57880

ASSESSMENT: Lot 107: \$3,780,000
Lot 111: \$2,830,000
Lot 115: \$2,830,000
Lot 119: \$2,830,000

This complaint was heard on 6th day of July, 2010 at the office of the Assessment Review Board located at 4th floor, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 2.

Appeared on behalf of the Complainant:

- *Brian Dell, Solicitor, Wilson Laycraft*
- *Graham Kerslake, Altus Group*

Appeared on behalf of the Respondent:

- *Dale Grandbois, Assessor, City of Calgary*

DESCRIPTION OF SUBJECT PREMISES:

The subject properties are located at 107, 111, 115, 119 – 13th Ave. SE. The subject properties are four adjacent lots owned by TransAlta Corporation and located in the community of Beltline. The lots are vacant, have no improvements and provide surface parking for the TransAlta employees. The areas of the lots are:

- 107 – 14012 sq. ft.
- 111 – 10507 sq. ft.
- 115 – 10505 sq. ft.
- 119 – 10503 sq. ft.

All four lots are assessed at \$270/sq. ft. and the assessments are:

- 107 – \$3,780,000
- 111 – \$2,830,000
- 115 – \$2,830,000
- 119 – \$2,830,000

ISSUES:

1. The vacant lands are assessed in excess of market value and inequitably. Other similar properties are assessed at \$215/sq. ft. rather than \$270/sq. ft. which is the rate used for the subject.
2. The classification of the subject is in error. Vacant lots that carry a land use designation of multi-residential should therefore be classified as residential under Section 497 of the Municipal Government Act for market rate purposes.
3. Wrong assessed person.

COMPLAINANTS POSITION:

The Complainant provided a list of sales of vacant land in the Beltline district of Calgary (C1;P43). The sale prices per sq. ft. range from \$118.28/sq. ft. to \$200.01/sq. ft. In addition, seventeen equity comparables were provided (C1;P161). The assessments per sq. ft. ranged from \$214/sq. ft. to \$226/sq. ft. The Complainant also provided oral evidence to indicate that the current use of the subject properties is the intended use and there are no development permits for its properties.

RESPONDENT POSITION:

The Respondent provided the Board with a submission (R-1). On P. 69, R-1, five sales comparables are provided. All were improved properties, and all were substantially smaller in size than the subject. The Respondent also indicated that a number of properties provided by the Complainant (C1, P13) were not arms length and hence should not have much weight placed on them.

BOARD'S DECISION:

- 1) The decision of the Board on Issue 1 is to reduce the assessment per sq. ft. from \$270 to \$215. Therefore the assessments are as follows:
 - A) Roll 068165166-Lot 107 to \$3,000,000
 - B) Roll 068165176-Lot 111 to \$2,250,000
 - C) Roll 068165182-Lot 113 to \$2,250,000
 - D) Roll 068165190-Lot 119 to \$2,250,000
- 2) The decision on Issue 2 is to confirm the property classification on the subject properties as 100% non-residential.
- 3) No evidence was presented for this issue, so no decision was made on this issue. The error in the assessed person's name has been corrected.

REASONS:

The Board was persuaded by comparables #1, 2, 3, 4, and 5 (C-1.P.161). All were in close proximity to the subject properties and had assessments per sq. ft. ranging from \$214 to \$226. Also, they were all of Type "Land Only" and were all in the Beltline District. Regarding Issue #2, the Board did not alter property classification as the subjects' current use is as parking lots and there are no active development plans.

DATED AT THE CITY OF CALGARY THIS 14 DAY OF July 2010.



T. Sadlowski
Presiding Officer

TS/sd

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) *the complainant;*
- (b) *an assessed person, other than the complainant, who is affected by the decision;*
- (c) *the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) *the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) *the assessment review board, and*
- (b) *any other persons as the judge directs.*